

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No. 10-20320

JASON NASH,

Defendant.

ORDER DENYING “MOTION REGARDING EVIDENTIARY HEARING”

The matter is before the court for the sentencing of Defendant Jason Nash following his guilty plea pursuant to an agreement under Federal Rule of Criminal Procedure 11. On February 8, 2011, a sentencing and evidentiary hearing was set for March 9, 2011, giving all parties thirty days notice of the hearing. On March 7, 2011, just two days before the evidentiary hearing, the Government filed a “Motion Regarding the Evidentiary Hearing,” in which it requested that the evidentiary hearing either be rescheduled or that the court convert it to simply a sentencing hearing, without taking any evidence. The basis for the Government’s request is that its main witness was scheduled to testify before another judge at the same time as this court’s evidentiary hearing. The Government gave no explanation for why the motion was filed with such late notice to the court and Defendant. Nonetheless, due to the conflict of the Government’s witness, the court adjourned the hearing until April 12, 2011.

Having rescheduled the evidentiary hearing, and having given almost 6 weeks notice, the court anticipates there will be no conflicts with the April 12, 2011, hearing and all witnesses will be available. Thus, the court need not grant the Government’s

additional request, that the evidentiary hearing be converted to a sentencing hearing where no evidence is presented. Indeed, the court is of the impression that all factual issues should be resolved, regardless of the court's recent decision regarding the applicability of the Fair Sentencing Act. (3/11/11 Opinion and Order.) Accordingly,

IT IS ORDERED that the Government's "Motion Regarding Sentencing" is DENIED AS MOOT.

s/Robert H. Cleland

ROBERT H. CLELAND

UNITED STATES DISTRICT JUDGE

Dated: March 18, 2011

I hereby certify that a copy of the foregoing document was mailed to counsel of record on this date, March 18, 2011, by electronic and/or ordinary mail.

s/Lisa Wagner

Case Manager and Deputy Clerk

(313) 234-5522